

STATE OF UTAH - STATE COOPERATIVE CONTRACT

CONTRACT NUMBER MA246

1. CONTRACTING PARTIES: This State Cooperative Contract is between the **Division of Purchasing and General Services**, an agency of the State of Utah, and the following CONTRACTOR:

Globalstar USA, LLC

Name

461 South Milpitas Blvd.

Address

Milpitas

CA

95035

City

State

Zip

LEGAL STATUS OF CONTRACTOR


- ☐ Sole Proprietor
☐ Non-Profit Corporation
☒ For-Profit Corporation
☐ Partnership
☐ Government Agency

Contact Person Donnie Hatch Phone # (503) 307-5489 Fax # (360) 834-7998 Email donnie.hatch@globalstar.com
Federal Tax ID# 412116508 Vendor # 117583A Commodity Code # 72551, 72560, & 80410

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide:
WSCA Contract to provide Satellite phones, Equipment, & Services per RFP #DG7520
3. CONTRACT PERIOD: Effective date: June 1, 2007 Termination date: May 31, 2010 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal options (if any): 3 (1) year
4. PRICING AS PER THE ATTACHMENT Discounts
PAYMENT TERMS: Net 30
DAYS REQUIRED FOR DELIVERY: 1-2 days for Equipment - Activation of Service generally sameday.
MINIMUM ORDER: None
FREIGHT TERMS: F.O.B. Destination - Freight Prepaid
5. ATTACHMENT A: Addendum 1
ATTACHMENT B-1: WSCA Terms and Conditions
ATTACHMENT B-2: N/A
ATTACHMENT C: N/A
6. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
b. Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid # DG7520 dated 2/21/07.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.


CONTRACTOR

 5/31/07
Contractor's Signature Date

Dennis C. Allen
Type or Print Name and Title

Sr. V.P. Sales

STATE OF UTAH

 6/6/07
Douglas G. Richins Date
Director, Div. of Purchasing & General Svs.

ATTACHMENT A ADDENDUM 1

This Addendum lists terms and conditions of the contract between the State of Utah, referred to as STATE and Globalstar USA, LLC, referred to as Contractor. The State of Utah is acting as the Lead State for the procurement process resulting in WSCA **Contracts for Satellite Phones, Equipment & Services.**

A. Manufacturer Product Line(s)

This contract authorizes the Contractor to provide the following manufacturers of Satellite Phones, Equipment and Services as listed by category. No other equipment or maintenance will be covered under this contract, unless identified in an amendment to the contract. Products covered under this agreement are:

Satellite Phones, Equipment and Services: Globalstar Brand

B. State of Utah/WSCA Contract Manager

Debbie Gundersen
State of Utah
Division of Purchasing and General Services
State Office Building, Capitol Hill
Room 3150
Salt Lake City, UT 84114-1061

email: dgundersen@utah.gov
Voice: (801) 538-3150
Fax: (801) 538-3882

C. Remittance Address

Authorized Dealers Listed on WSCA Website

D. Special Terms and Conditions

The parties agree to amend the terms and conditions as follows:

1. Order of Precedence

The order of precedence for the contract terms will be as follows:

1. Attachment B: WSCA Terms and Conditions
2. State of Utah Contract Signature Page (Cover Page)
3. Attachment A: Addendum 1
4. Contractor's Terms and Conditions, if applicable - NONE
5. Contractor's Response to BAFO for RFP DG7520, incorporated by reference
6. Contractor's Response to RFP DG7520, incorporated by reference

8. RFP DG7520, incorporated by reference
2. Included Documents
The documents listed in Number 1 are included in the contract. It is agreed that any reference to the "Entire Agreement" includes these documents.
3. Public Information
The contract, including the price lists and the Response to the RFP, will be considered public documents and will be subject to government records policies in each state. The Contractor gives the STATE express permission to make copies of the information specified to provide to other STATE government entities that may use the contract, and to the public, in accordance with general STATE policies, including copies of said information that may be identified as confidential, proprietary, or copyrighted.
4. Arbitration
The STATE will not accept mandatory, binding arbitration. If there are any references to binding arbitration in the Contractor's Response to the RFP, they will be null and void. The parties may agree, on a case by case basis, to voluntary arbitration to resolve contract issues.
5. Contract Period
The contract period, including renewal options, is listed on the STATE OF UTAH - Statewide Contract cover page. Renewals will be agreed to upon written authorization from both parties. All references to automatic renewals will be null and void.
6. Governing Law
This procurement shall be governed and the resulting price agreement construed in accordance with the laws of the State of Utah. The construction and effect of any Participating Addendum or order against the price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the price agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's State.

E. Contractor Requirements

1. Contractor Responsibility
Contractor is solely responsible for fulfillment of the responsibilities under the terms and conditions of the contract. The procuring agencies will issue purchase orders and make payments to only the named contractors or their respective resellers.

2. Serving Subcontractors
If using servicing subcontractors for the performance of local marketing, maintenance and/or technical support services in accordance with the terms and conditions of the contract, servicing subcontractors may not directly accept purchase orders or payments for products or services from procuring agencies under the terms and conditions of the contract. The authorized procuring agency has the option of choosing whether to purchase the associated OEM maintenance and/or training to support the equipment purchased.
3. WSCA Administration Fee
The contractor must pay a WSCA administration fee of one half of one percent (.50%) in accordance with the terms and conditions of the contract. The WSCA administration fee is not negotiable.
4. Usage Reporting Requirement
Contractor must submit quarterly usage reports to the contract manager. Initiation and submission of the quarterly report is the responsibility of the contractor without prompting or notification by the contract manager. The due dates of each quarterly contract usage report are April 30, July 31, October 31 and January 31. Quarterly usage reports must contain total dollar usage figures for each WSCA member-state (and non-member state), per product category, per manufacturer, respectively. Usage figures must be provided per maintenance option. Failure to submit reports could result in the cancellation of this contract.
5. Change in Contractor Representatives
The State of Utah/WSCA reserves the right to require a change(s) in contractor representatives if the assigned representative(s) is not, in the opinion of the State of Utah's contract manager, meeting its needs adequately.
6. Website Development and Maintenance
Contractor must maintain said website and keep the information current and correct on a timely basis.
7. Rollout and Marketing
Contractor may conduct a marketing effort as described in Contractor's proposal.
8. Right to Publish
Contractor must secure prior approval from the contract manager for permission to release any information that pertains to the potential work or activities relating to this contract. Failure to adhere to this requirement may result in termination of the contract for cause.
9. Contractor's Scope of Equipment and Services
Contractor may only fill contract orders from the scope of equipment and services under contract. Any sale made under this contract by the Contractor of equipment,

products or services not explicitly covered by the scope of equipment, products and related services described in Section E may result in contract termination for cause.

10. E-Rate Requirement

Contractor must participate in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the contractor.

11. Freight Terms of Sale F.O.B. Destination, Freight Prepaid

Contractor will ship all products F.O.B. destination, freight included in the product price. Contractor may not include freight charges on invoicing. Failure to comply with this requirement may result in contract termination for cause.

Whenever a procuring agency does not accept any product and returns it to the contractor, all related documentation furnished by the contractor shall be returned also. The contractor shall bear all risk of loss or damage with respect to returned products except for loss or damage directly attributable to the negligence of the procuring agency. Contractor is responsible for the pick-up of returned equipment.

12. Price Guarantee Period

Percentage discount depth from list is not subject to a "price increase request" that would result in a less attractive discount; discounts may only be adjusted by the contractor to reflect a deeper discount(s). The discount is applied to manufacturers current published list price schedule(s).

Maintenance and any training related costs are also guaranteed for the entire contract..

13. Product Revision Requests

Contractor must submit updated price list(s) upon publication, or any other product model changes, addition of new products, product upgrades or services in a timely manner.

Contractor agrees to delete obsolete and discontinued products from the contract price list(s) on a timely basis. Major product model changes will be incorporated into the contract as soon as possible after product introduction, to be offered at the same rate of discount for the appropriate price list and its discount.

14. Maintenance of Current Price List with Discount(s) Applied

Manufacturer's price list(s) must be tailored for WSCA with the WSCA contract discount(s) applied; this must be created and maintained by the contractor on an

Internet website hosted by the contractor, at no additional charge(s) to the State of Utah or WSCA. This website will be listed as a link from the WSCA website.

F. Contract Scope of Equipment and Related Services

Any sale by the Contractor of equipment, products or services not explicitly covered by the scope of equipment, products and related services described below may result in contract termination for cause.

1. Discounts of Manufacturers Price List

a. Pricing Discounts

Globalstar will provide to the WSCA customer a 15% discount off of the Suggested Retail Pricing of all Globalstar products and equipment.

Globalstar will provide the WSCA customer with a standard 13% [thirteen percent] airtime discount off of its retail rate plans, which are limited to Liberty and Unlimited Plans.

Liberty/Annual Seasonal Plan	Standard Retail Price/Annual	WSCA Discount	Discounted WSCA Price/Annual	Home Minutes	Included Minute Rate	Overage Fee	Voice Mail	Email/Internet Express Data Compression	Optional Fax Service
E-Star Liberty	\$299.88	13%	\$260.90	0	\$1.30	\$1.30	\$83.00	\$103.88	\$417.08
Liberty 600	\$500.00	13%	\$435.00	600	\$0.72	\$0.86	\$83.00	\$103.88	\$417.08
Liberty 1,800	\$530.00	13%	\$461.10	1,800	\$0.26	\$0.86	FREE	FREE	\$417.08
Liberty 6,000	\$940.00	13%	\$817.80	6,000	\$0.14	\$0.86	FREE	FREE	\$417.08
Liberty 16,800	\$2,300.00	13%	\$2,001.00	16,800	\$0.12	\$0.86	FREE	FREE	\$417.08
Liberty 48,000	\$4,600.00	13%	\$4,002.00	48,000	\$0.08	\$0.43	FREE	FREE	\$417.08
Unlimited Loyalty - 2007	\$49.99/month	13%	\$43.49	Unlimited	\$0	\$0	FREE	FREE	\$417.08
Unlimited Loyalty - 2008	\$39.99/month	13%	\$34.79	Unlimited	\$0	\$0	FREE	FREE	\$417.08
Unlimited Loyalty - 2009	\$19.99/month	13%	\$17.39	Unlimited	\$0	\$0	FREE	FREE	\$417.08
Unlimited Loyalty - 2010	\$19.99/month	13%	\$17.39	Unlimited	\$0	\$0	FREE	FREE	\$417.08



Home Area for Emergency, Liberty, and Unlimited Minutes

When customers use Globalstar service outside the Home Service Territory, purchased Liberty/Emergency/Unlimited minutes are unaffected.

A roaming calculator to calculate all possible roaming charges can be found at.

http://www.globalstarusa.com/cgi-bin/Roaming_RateCalculator.cgi

The WSCA customer will receive a 13% discount off the retail roaming charges.

WSCA Member-State coverage

All 49 United States, minus Hawaii.

Cancellation Charges/Notification Procedures

Globalstar will not bill the WSCA customer a cancellation charge. The WSCA customer can cancel service by calling Globalstar's Customer Care Center at 877-452-5782 24/7/365.

2. Resolution of Customer Problems

The Globalstar Customer Care Center (877-452-5782) and the Globalstar Subcontractor should be the primary points of contact for the resolution of customer problems.

Billing Questions and Disputes

All billing questions and disputes are to first be sent to Globalstar Customer Care at 877-452-5782. If the customer does not feel that they have been given adequate attention to their matter, they may contact their respective Globalstar subcontractor with their question/dispute. The Globalstar subcontractor will then escalate the matter to the appropriate personnel at Globalstar to answer/resolve the matter as is justified.

Should the customer be unable to get their question/dispute resolved by neither Globalstar Customer Care of the Globalstar Subcontractor, then the customer may contact donnie.hatch@globalstar.com at 503-307-5489 7 days a week.

In most cases, Globalstar Customer Care and Subcontractors will be able to resolve any billing question and dispute within 1 working day. Globalstar accepts to provide the customer with a telephone acknowledgement or electronic response within 2 (two) working days of problem receipt.

3. Escalation Procedures

Globalstar provides WSCA customers with 3 levels of after sales customer support.

Primary After Sales Points of Contact

a.) Globalstar Customer Care

Services Provided: Live Person Support on Activations, Pricing, Billing, Technical Support, Equipment Support, RMA's, Network Updates, General Administrative

Available 24x7. 365 days per year in English, Spanish, and French

Toll-free 877-452-5782

Calls are free from any Globalstar phone in the US, Canada, and Puerto Rico by dialing 611

www.globalstar.com

custcare@globalstar.ca

b.) Globalstar Subcontractors

Services Provided: Live Telephone Activations Support, Pricing, Technical Support, Equipment Support, General Administrative

Available 9:00am – 5:00pm Local Time.

Secondary After Sales Point of Contact

c.) Donnie Hatch. Distribution Manager – Western States US

Services Provided: Live Telephone and in some cases in person support available on Activations, Pricing, Billing, Technical Support, Equipment Support, General Admin.

Available 7:00am – 6:00pm Pacific Time. 5 days per week

2602 NW 35th Circle

Camas, WA 98607

Tel 503-307-5489

Fax 360-834-7998

Donnie.hatch@globalstar.com

4. Technical Services (Equipment Warranty, Installation, Training, Maintenance Options, Replacement)

Warranty periods for Globalstar products include:

- Portable Phones - one (1) year from date of purchase
- Fixed Phones - one (1) year after date of installation
- Batteries - 6 months from date of purchase
- Car Kits - ninety (90) days after installation
- Accessories - ninety (90) days
- Carrying cases - Defect free at time of shipment

Warranty/out of Warranty Replacements and Repairs

When a customer has a product that is inoperable (in or out of warranty), the customer is to contact Globalstar Customer Center toll-free at 877-452-5782 or via email at custcare@globalstar.ca. The Globalstar Customer Care Representative will first carry out some troubleshooting with the customer. Some of this troubleshooting includes: confirming activation of the phone, account status, determination of service availability from the customer's location, etc. If troubleshooting does not eliminate the problem, then Globalstar Customer Care will create a Tier 2 trouble ticket and issue a RMA.

Once an RMA is created, the customer can choose to wait in a telephone que for immediate technical support, or schedule for a service technician to call the customer back. Based on the nature of the equipment failure, the service technician will fix, replace, or swap out the faulty equipment.

Warranty replacements are advanced shipped and arrive on average within 2 business days. Any lost, theft or damaged phones are not covered under warranty and require the purchase of a new unit.

Out of warranty equipment takes on average 10 business days to repair and ship by Globalstar Customer Care. Cost is dependant on defect to a maximum of the cost of a new phone.

Replacement of lost equipment can be purchased from the Globalstar subcontractor. Shipments of newly purchased Globalstar products is sent via FedEx Ground from Toronto, Canada. There is not shipping and handling fee for Fedex Ground shipments. Expedited Fedex shipping is also available at \$15 per order.

In some emergency situations, Globalstar may provide the WSCA customer with a Globalstar phone of like kind for use as a temporary replacement.

If equipment is out of warranty and is beyond repair (fails as a result of normal wear and tear, depreciation, etc), then Globalstar will provide replacement equipment at the following prices:

GSP 1600 mobile phones - \$250

GSP 1700 mobile phones - \$350

Any Globalstar fixed phones - \$600

The above replacement fees are not valid if it is determined that the equipment has failed as a result of abuse or neglect by the user.

If required, the customer may contact one of Globalstar's local subcontractors to obtain advice, troubleshooting, minor repair, and potentially loaner equipment. List of all locations are included in Appendix D. Please note that in most cases, Globalstar does not authorize its agents to carry out Level 2 and Level 3 repair procedures.

Installation and Training

Each Globalstar subcontractor employs at least 1 certified technician capable of providing the above stated servicing and installation of Globalstar equipment. The Globalstar subcontractor is responsible for training the customer on the purchased products and services.

Maintenance on all Globalstar equipment that is carried out by one of Globalstar's subcontractors is provided at a rate of \$125 [one hundred and twenty five Dollars] per hour, and a 3 hour minimum charge, with billing in 15 minute increments thereafter. Facilities located outside of a 100-mile radius of a servicing dealer will incur travel expenses on a time and material basis.

Dead on Arrival (DOA Equipment)

In some small cases, the customer may receive from Globalstar a DOA (dead on arrival) phone. DOA Process – Mobile and fixed units, dead on arrival:

- a.) Send an email including purchase order number, sales order number, type of equipment being returned, number of units being returned, ESN's, and MDN's to equipmentorders@globalstar.com.
- b.) Globalstar will verify that these units have been activated for 2 days or less to determine the DOA status. Once the DOA status is confirmed, the units will be replaced.
- c.) Equipment needs to be returned within 30 days, or the full invoice price will be charged.

Globalstar does not provide insurance for its products.

If equipment is lost by the user, then the user will be obliged to purchase a new piece of equipment as per the offered WSCA prices by Globalstar.

Network Service Problems

The procedure for escalating network service problems should be:

- a.) Customer contacts Globalstar Customer Care Center toll-free at 877-452-5782. In nearly all cases, Globalstar Customer Care will be able to address any network service problems that a customer may have.
- b.) If the Customer Care Center is unable to address the customer's inquiry in a timely manner, or is not capable, the customer should contact its nearest Globalstar subcontractor.
- c.) If the nearest Globalstar subcontractor is unable to address the customer's inquiry in a timely manner, or is not capable, the customer should contact Donnie Hatch at Globalstar via 503-307-5489 or Donnie.hatch@globalstar.com

5. Servicing Sub-Contractors (Resellers)

A list of the Servicing sub-contractors will be posted on the WSCA Website at www.aboutwsca.org and on the Contractor's network website. This list will be updated as changes are made.

6. Globalstar WSCA Contract – Typical Order Flow

Terms and Procedures

- 1. Request for Quote (RFQ) issued by qualifying customer
- 2. Authorized Subcontractor (Globalstar Dealer) supplies customer with proper quote for equipment and/or service
- 3. Customer's Contracting Officer (CO) issues Purchase Order (PO) payable to Globalstar Inc., c/o dealer's name to Globalstar dealer
- 4. Dealer provides to Globalstar Fulfillment Desk.
 - 4.1. Customer's Purchase Order
 - 4.2. WSCA Equipment and Service Order Form (Internal Form provide by Globalstar to dealer)
- 5. Globalstar fulfills per quote, or rejects.

6. Globalstar ships no later than within 24 hours during business week ordered equipment directly to customer or dealer, as per the desire of the customer. ESN and telephone numbers of equipment is forwarded electronically to dealer.

There is no charge to the customer when Globalstar ships equipment via FedEx 2nd Day Air. If FedEx overnight is required, then Globalstar charges a flat fee of \$15, regardless of order size.

7. Globalstar Fulfillment Desk activates equipment while in route, and sends activation confirmation to dealer.
8. Globalstar dealer trains customer on purchased equipment.
9. Globalstar invoices customer directly for purchase of equipment and/or service.

Note About Existing Globalstar Subscribers wishing to utilize the WSCA Contract

1. Complete flexibility for Existing Subscribers. They can:
 - 1.1. Do nothing, and stay on old Globalstar pricing & terms of service
 - 1.2. Agree to new terms and take advantage of new pricing
 - a. Purchase Orders for "WSCA Service Pricing and Terms" are to be sent to dealer, or to Globalstar Fulfillment Desk
 - b. All terms are on a line-by-line basis, allowing an agency to have all one or the other, or to mix old and new terms.

Attachment B – WSCA Terms and Conditions

Standard Contract Terms and Conditions

Western States Contracting Alliance

Request for Proposal

PARTICIPANTS: The Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming. Obligations under this contract are limited to those Participating States who have signed (and not revoked) an Intent to Contract at the time of award, or who have executed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

QUALITY ESTIMATES: WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for the purposes of submitting proposals only and are not to be construed as a guarantee to purchase any amount.

SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the RFP states "No substitute". Proposals will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

ACCEPTANCE OR REJECTION OF PROPOSALS: WSCA reserves the right to accept or reject any or all proposals or parts of proposals, and to waive informalities therein.

SAMPLES: Generally, when required, samples will be specifically requested in the Request for Proposals. Samples, when required, are to be furnished free of charge *based on agreement from both parties*. Except for those samples destroyed or mutilated in testing, samples will be returned at a offeror's request, transportation collect.

CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however, discounts offered for less than 30 days will not be considered

in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

TAXES: Proposal prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

MODIFICATION OR WITHDRAWAL OF PROPOSALS: Proposals may be modified or withdrawn prior to the time set for the opening of proposals. After the time set for the opening of proposals no proposal may be modified or withdrawn, unless done in response to a request for a "Best and Final Offer" from WSCA.

PATENTS, COPYRIGHTS, ETC.: The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

AWARD: WSCA may award multiple contracts as the result of this solicitation. Awards shall be made to the responsible offeror(s) whose proposal is determined to be the most advantageous to WSCA, taking into consideration price and the other evaluation factors set forth in the RFP.

NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition.

CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

DEFAULT AND REMEDIES: Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicitations.

LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow; the special terms and conditions shall govern.

REPORTS: The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

HOLD HARMLESS: The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

GOVERNING LAW: This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of an Participating Addendum shall be in the Purchasing Entity's State.

DELIVERY: The prices offered shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all

transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance (*within 21 days after delivery for external damage and 30 days for any concealed damage*) when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

WARRANTY: As used herein "Buyer" refers to any WSCA state agency or political subdivision. The contractor acknowledges that the Uniform Commercial Code applies to this contract. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any *special purposes* that the Buyer has relied on the contractor's skill or judgment to consider when it advised WSCA state about the product. (e) The product has been properly designed and manufactured and (f) the product is free of significant defects or unusual problems about which the WSCA state has not been warned. Remedies available to the State include the following: The Contractor will repair or replace (at no charge to the WSCA state) the product whose nonconformance is discovered and made known to the Contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of

1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in compliance with proposal specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

PAYMENT: Payment for completion of a contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card".

FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

HAZARDOUS CHEMICAL INFORMATION: The contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of proposal opening. Prices must remain firm for the full term of the contract.

EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

PROPOSAL PREPARATION COSTS: WSCA is not liable for any costs incurred by the offeror in proposal preparation.

CONFLICT OF INTEREST: The contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

INDEPENDENT CONTRACTOR: The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA participating states shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

DEBARMENT: The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA.

RECORDS ADMINISTRATION: The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this contract. These records will be retained by the contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later.

AUDIT OF RECORDS: The contractor agrees to allow WSCA, State and Federal auditors, and state agency staff access to all the records to this contract, for audit and inspection, and monitoring of services. *The scope of audits would be within the context of the contract.* Such access will be during normal business hours, or by appointment.

Revision date: September 14, 2006